

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.A.ABDUL GAFOOR
&
THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 1ST JANUARY 2007 / 11TH POUSHA 1928

WA.No. 1915 of 2006(B)

AGAINST THE JUDGEMENT/ORDER IN WPC.20716/2006 Dated
11/08/2006

.....

APPELLANT: PETITIONER

1. E.UNNIKRISHNAN, S/O.KUMARAN,
ENGENGARA HOUSE, KADAMPUZHA (P.O.),
MALAPPURAM.
2. DAMODARAN NAIR,
S/O.GOVINDAN NAIR,
PALAKKATHOTTATHIL HOUSE,
MARAKKARA, MALAPPURAM.

BY ADV. SRI.P.SANJAY
SMT. PARVATHI MANON A

RESPONDENTS:

1. STATE OF KERALA REPRESENTED BY SECRETARY
DEVASWOM DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.
2. THE COMMISSIONER,
HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS
(HR & CE) ADMINISTRATION DEPARTMENT, CALICUT.
3. THE EXECUTIVE OFFICER,
SREE KADAMPUZHA BHAGAVATHI DEVASWOM,
KADAMPUZHA, MALAPPURAM.

ADDL. R4 & R5 IMPEADED

4. NANDAKUMAR,
S/O. RAGHAVAN,
CHOORIYATH HOUSE,
KADAMPUZHA

5. S.K. AYYAPPAN,
S/O. KRISHNAN,
VELAKKADAN HOUSE
KADAMPUZHA.

(ADDITIONAL RESPONDENTS 4 & 5 ARE IMPEADED VIDE
ORDER DATED 14.11.2006 IN I.A. 1096/2006)

BY ADV. SRI.T.P.KELU NAMBIAR (SR.)
SRI.P.G.RAJAGOPALAN
SRI.M.GOPIKRISHNAN NAMBIAR
SRI.A.KRISHNAN
SRI. BENNY GERVOSIS, GOVERNMENT PLEADER

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD
ON 01/01/2007, ALONG WITH W.P.(C) NO. 30177 OF 2006,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.A. ABDUL GAFOOR & K.R. UDAYABHANU, JJ
=====
W.A. NO. 1915 & W.P.(C). NO. 30177 OF 2006
=====

Dated this the 1st day of January 2007

JUDGMENT

Abdul Gafoor, J

Both these cases are in respect of engagement of daily wage workers in Kadamapuzha Devaswom.

2. The petitioners in the Writ Petition which led to the Writ appeal approached this court seeking direction not to terminate their service. They did not succeed, therefore the appeal.

3. In the light of the recent Constitution Bench decision of Supreme Court in **Secretary, State of Karnataka v. Umadevi** (2006 (4) SCC (1)), such temporary or daily wage casual workers cannot claim regularisation or continuance in service. Therefore the judgment impugned in the Writ Appeal No. 1915/2006 cannot be interfered in this appeal and the appeal is dismissed.

4. Now we will deal with the writ petition. This Writ Petition was posted before us as the issue involved is the same as in the writ appeal, just we have disposed of. Admittedly, the writ petitioners are daily wage employees employed in Kadapuzha Devaswom. According

to them, replacing them by respondent No. 5 to 15 are being engaged on casual wages to do the same work. It is submitted on behalf of the counsel appearing for the respondent 7 to 11 that they were engaged in sathram attached to the Devaswom. Admittedly Writ Petitioners were not engaged as casual worker in the Sathram but in the office of the Devaswom. Therefore, the engagement of the said respondents are not replacing the writ petitioners. It is not known what was the work for which respondent Nos. 5 and 13 to 15 are engaged.

Anyhow, this Writ Petition is disposed of directing that casual employees shall not be engaged to do the same work for which the writ petitioners have been engaged while keeping them out of work. At the same time the Devaswom shall take necessary steps at the earliest and expeditiously to make regular employment wherever required.

K.A. ABDUL GAFOOR, JUDGE

K.R. UDAYABHANU, JUDGE.

RV